

REMARKS

I. INTRODUCTION

Claims 72-75 have been amended. Claims 1-46, 49, and 50 have been cancelled. Thus, claims 47, 48, and 51-75 remain pending in the present application. No new matter has been added. In light of the above amendments and the following remarks, Applicants respectfully submit that all presently pending claims are in condition for allowance.

II. THE 35 U.S.C. § 112 REJECTION SHOULD BE WITHDRAWN

Claims 47 and 48 stand rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. Specifically, the Examiner states that it is not clear why there is a need for the claimed A/D converter digitizing the measured signal. (See 8/19/09 Office Action, p. 2). The Examiner also states that the measured signal is just a numerical time value corresponding to the time delay of the reflected signal and that this numerical time value is already in digital format. (See Id.).

Initially, Applicants respectfully submit that this is not a proper §112, first paragraph, rejection because the specification contains enough detail to enable one of ordinary skill in the art to make or use the invention. Furthermore, just because the Examiner does not understand the function of an element of the claimed invention, it does not mean that the invention lacks proper enablement.

One of ordinary skill in the art would understand that the claimed measured signal is, in fact, an analog signal. In the art of fill level measurement, a transmitter in the sensor device transmits a modulated signal in the direction of the medium to be measured. This medium then reflects the transmitted signal and the reflected signal is subsequently received by a receiver. The reflected signal has a different phase and/or amplitude than the transmitted signal. The difference between the transmitted and received signals is processed to determine the fill level. Both the transmitted and received signals are analog signals. Applicants refer to the definition of an analog signal to further prove that transmitted and received modulated signals are analog signals. “An

Analog or analogue signal is any continuous signal for which the time varying feature (variable) of the signal is a representation of some other time varying quantity.” (See Wikipedia definition of “Analog Signal”)(referring to the definition of an analog signal in “Digital Signal Processing: Instant Access.” Butterworth-Heinemann pp. 2-3 and to “Concise Dictionary of Computing.” Penguin Reference-Penguin Books pp. 11-12).

Thus, Applicants respectfully submit that the claimed measured signal is an analog signal, which necessitates the use of the claimed A/D converter for digitizing the measured signal. The withdrawal of the §112, first paragraph, rejection is, therefore, respectfully requested.

III. THE CLAIMS OBJECTION SHOULD BE WITHDRAWN

Claims 73-75 stand objected to for being in improper multidependant form. In view of the amendments to these claims, the withdrawal of this objection is respectfully requested.

IV. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 47, 48, 51, 53-56, 58, 60-71, and 75 stand rejected under 35 U.S.C. §103(a) for being obvious over Michalski et al. (U.S. Published App. No. 2004/0074295). Claims 52, 57, and 59 stand rejected under 35 U.S.C. §103(a) for being obvious over Michalski in view of Soliman (U.S. Published App. No. 2003/0174067).

Claim 47 recites, “[a] fill level sensor unit, comprising: a measured signal receiver registering a measured signal; *an A/D converter digitizing the measured signal*; a transceiver device wirelessly transmitting data to an environmental device; and *a processor configured to only assume activating the measured signal receiver, the A/D converter, and the transceiver device in such a way that, that the measured signal is digitized and subsequently transmitted without signal processing after the A/D conversion, via the transceiver device, to the environmental device, the environmental device being coupled to an analysis unit which converts the measured signal into a*

measured value; wherein the sensor is a fill level sensor; and wherein the measured signal receiver transmits and receives one of a radar signal, an ultrasound signal and a guided microwave signal.”

The Examiner correctly acknowledges that Michalski fails to disclose or suggest “*an A/D converter digitizing the measured signal*” and “*a processor configured to only assume activating the measured signal receiver, the A/D converter, and the transceiver device in such a way that, that the measured signal is digitized and subsequently transmitted without signal processing after the A/D conversion, via the transceiver device, to the environmental device, the environmental device being coupled to an analysis unit which converts the measured signal into a measured value,*” as recited in claim 47. (See 8/19/09 Office Action, p. 4).

With respect to the rejection of the claims, the Office Action does not provide a citation to prior art in support of, an alleged teaching or suggestion of the above-recited features of claim 47. Rather, the Office Action appears to be taking implicit Official Notice that these features are allegedly obvious. Although the Examiner does not explicitly indicate that Official Notice is taken to render the above-cited limitations obvious, the Examiner nevertheless fails to provide prior art references that teach these limitations. The Examiner merely states that these limitations would be obvious to one of ordinary skill in the art. Applicants respectfully submit that the implicit application of Official Notice in the outstanding Office Action is improper.

Furthermore, the Examiner states that it would be obvious for the “time delay value” to be, alternatively, converted into a measured value locally and subsequently transmitted to a remotely located monitor. (See *Id.*, p. 4). However, claim 47 clearly recites that “*the measured signal is digitized and subsequently transmitted without signal processing after the A/D conversion, via the transceiver device, to the environmental device, the environmental device being coupled to an analysis unit which converts the measured signal into a measured value.*” Thus, it is clear that the measured signal is **remotely** converted into a measured value.

It seems the Examiner bases his contentions on the fact that the measured signal is a “time delay value.” However, this term was defined by the Examiner and is not in the present application. Furthermore, as explained above with regard to the §112, first paragraph, rejection, the measured signal is not a “time delay value” but rather, an analog signal. Applicants respectfully submit that the Examiner uses improper hindsight reconstruction to render the claimed invention obvious. If the Examiner continues to believe that the above-recited features are well known in the art, Applicants respectfully request that the Examiner provide a reference or references in the next Office Action allegedly offering evidence that this is the case. However, if the Examiner cannot provide sufficient references to support his contentions, then it is respectfully requested that the Examiner indicate that claim 47 and its dependent claims 48, 51, 53-56, 58, 60-71, and 75 are allowable.

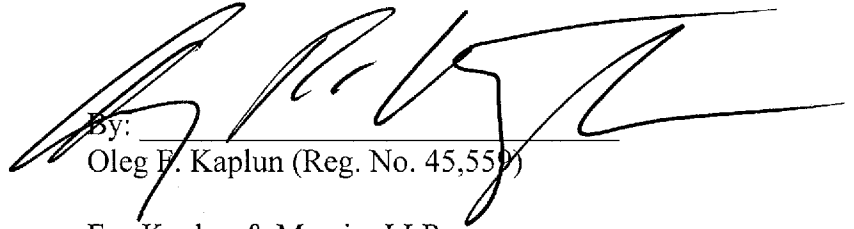
Applicants respectfully submit that Soliman fails to cure the deficiencies of Michalski, which are correctly acknowledged by the Examiner, and that Michalski and Soliman, taken alone or in combination, fail to disclose or suggest “*an A/D converter digitizing the measured signal*” and “*a processor configured to only assume activating the measured signal receiver, the A/D converter, and the transceiver device in such a way that, that the measured signal is digitized and subsequently transmitted without signal processing after the A/D conversion, via the transceiver device, to the environmental device, the environmental device being coupled to an analysis unit which converts the measured signal into a measured value,*” as recited in claim 47. Because claims 52, 57, and 59 depend on and, therefore, contain all of the limitations of claim 47, it is respectfully submitted that these claims are also allowable.

CONCLUSION

It is therefore respectfully submitted that all of the pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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A large, stylized handwritten signature in black ink, appearing to read 'O. Kaplun', is written over the signature line.

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